Supreme Court, U. S.
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No. 79-1148

In the Supreme Court of the Unites States

OCTOBER TERM, 1979

SETH O. SPARKS, Petitioner

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARIA TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

SUPPLEMENTAL BRIEF

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OPINION BELOW

The opinion of the court of appeals (Pet. App. 20-25) is not reported.

JURISDICTION

The judgment of the court of appeals was entered on November 23, 1979. The petition for a writ of certiorari was filed on December 26, 1979. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

ARGUMENT CONTINUED

The trial court, The court of appeals and the Solicitor General all maintain that the petitioner was at no time under legal arrest. The

petitioner concedes and accepts this ruling. The petitioner realizes now that he was mislead, deceived in believing that he was under arrest, and had to do what he said and do anything he wanted to do.

Since there was no legal arrest, there was no legal search. A search must be on way or the other, legal or illegal since legal is definantly out. The petitioner contends that he was false imprisioned by two armed men and robbed of all his private papers, auto title, insurance policys, discharge papers, records of death, bank statements and all the bills and vital papers of more than two hundred people.

The petitioner tried to stop them from taking records belonging to his clients and him self. The petitioner told them to leave the search was over. Trying to protect his personal papers the box fell and scattered them all over the floor. The officer demanded the petition to get off of the papers he was standing on and he got down on his hands and knees and gathered all of the records. The petitioner raised so much protest about the government men action, the agent promised to return everything in twenty days. Four years later those two days haven't come yet. The petitioner was false imprisoned more than fifteen hours in the six month period. While false imprisoned the petitioner was forced to accompany them to the bank and open his safe deposit box. Then examined and took notes on what was in my safe deposit box. The petitioner had to open a sealed will that belongs to his eighty seven year old mother that she had entrusted him with to protect the seal until her death.

Only after agent number two told him he was wrong that he would put the will down. Agent

one contended he was in his right to inspect anything he had anything to do with. Nov. 1970. To establish false imprisonment of which false arrest is integral part it is only necessary to prove that person be restrained of his liberty under probable imminence of force without any legal cause of justification therefor.--Marschall v. City of Carson, 464 P.2d 494. N.Y.A.D. 1971. Where claimant had been arrested without warrant, burden was on the state, in action for false arrest was justifiable under all the circumstances-DeBonis b. State, 325 N.Y.S. 2d 215, 37A.D.2878. Ill. 1973. PUrpose of Fourth Amendment warrant requirement is to assure that the decision as to whether there is probable cause to invade privacy of party to be searched is left to a neutral observer. U.S.C.A.Const. Amend. 4.-People v. Nunn, 304 N.E.2d 81, 55 Ill.2d 344. La. 1976. Search conducted without warrant issued upon probable cause is per se unreasonable under Fourth Ammendment, subject only to few specifically established and well-delieated exceptions, one of which is search incident to lawful arrest. U.S.C.A. Con. Amend. 4.-State v. Gordon, 332 So.2d 262.

The petitioner further contends that the government agent showed no personal cause to his actions.

1. It took the government agent six a six month study of the material contact threatening investigate prying into the affairs and life of more than two hundred people, confidential business that they had left with the petitioner who was bound by ethics to keep confidential. The agent violated all these people civil rights causing them undo hardships by setting his self as a I.R.S. Agent. He deliberately caused these people to loose thousands of dollars that were rightfully theirs. He disallowed one mans 5 kids because he would not sign a affidavit incriminating the petitioner. He cut one families grand child

causing them to loose four hundred dollars earned income credit because they would not cooberate with him against the petitioner. The familys daughter testified in open court to his gastopo like actions toward her parents, none of this was denied by the agent.

After the government agent locked up a case what he thought would sent the petitioner to jail, he turned over his findings to the District Tax Court. They failed to see a strong enough case to prosecute. Months later the case was turned over to a higher court that had jurisdiction over the South West Division of the U.S. They failed to prosecute. In turn the case was turned to the U.S. Supreme Tax Court in Washington D.C.

They failed to find grounds for prosecution. The case was returned to the lower court for it to be desolved.

After two and a half years in tax courts all the way to Washing D.C. and no indictment.

Further proves the petition was false imprisoned by agents acting on their own to destroy the petitioner. R.I. 1971. Where plaintiff in action against police officer for false arrest presented no evidence on damages, plaintiff would be entitled only to nominal damages if officer's plea of justification was considered as admission of fact and sufficient to establish prima facie case of false arrest. Gen. Laws 1956,§12-7-1 Ahern v. Lynch, 283A.2d 263, 109 R.I. 218. Md. 1970. Arrest or detention without legal authority, with or without probable cause. will render arresting person liable for damages considered actual compensation for unlawful invasion of plaintiff's rights and injury to his person and feelings and if act is motivated by malice or

if there exists wantonness, jury may award punitive damages as punishment for wrong done and as example to others. --Great Alantic & Pac. Tea Co. v. Paul, 261 A.2d 731 256 Md. 643. N.Y.A.D. 1974 Plaintiff who brought action for false arrest was entitled to recover all damages which reasonably resulted from false arrest. --Schanbarger v. Kellogg. 352 N.Y.S.2d 50. N.Y. Sup. 1970. The measure of damages for false imprisonment is such sum as will fairly and reasonable compensate the injured person for any injuries caused by the wrongful act, including any special pecuniary loss which is direct result of the false imprisonment--Sindle V. New York City Transit Authority, 316 N.Y.S.2d 657, 64 Misc.2d 993. 995. Ala.1973. Where there is no dispute about the facts, the Supreme Court may examine the record for a more complete understanding fo those features of the record which were treated in the opinion of the Court of Appeals--Nixon v. State, 286 So.2d 315, 291 Ala. 657, on remand 286 So.2d 317.

Instead of dropping the case the district attorney joined the government agent to farther fram the petitioner. No one in three years had filed or complained that they had been done wrong. The district attorney took it on his own to file charges with the treasury department for checks claiming stolen.

They filed for a Joe Lester Ward without the owners knowledge. The treasury department had collected the check back two years before from the petitioner.Because the agent denied credit for his dependent, filed for Roberto Hernandez Allen from old Mexico who hadn't been in the United States since January of 1976, who by 1979 had forgotten about that piece of paper he sold three years before.

A Grand Jury investigation was called to make his fram work. The district attorney and agent picketed thirteen or forteen dumb, scared, greedy people out of two hundred, and groomed them with answers for the Grand Jury, which consisted of one that was overheard asking another one, I wonder what they grow on them farms, that man is charging them so much tax on.

The district attorney got nineteen indictments in half a day after three courts studied the same case two years and found no cause to indict the petitioner.

The petitioner was framed. The District Attorney and government agent has committed the Watergate Act. Federal Rules 26,45,28 was violated by them The only difference in the Watergate and the district attorney and agents actions are at Watergate, agents broke, entered and stole documents. 1354 D.C.D.C. 73. Subpoenas were served on behalf of party and which would require personnal rectified publications to appear for deposition on inter alie, furnish all documents, photos and tapes related to the break in or other espionage operations June 17, 1972 through November 7, 1972 with broad range of commission officials and employes, persons connected with the party's presidential compain, FBI, Metropolitan Police were not uneasonable broad or opposive Federal Rules 26,45,28. U.S.C.A.-Democratic Nat. Committe V. McCord 356 F. Supp. 1354.

The district attorney framed the petitioner, the agent false imprisoned the petitioner and armed robbed him of his records to do the same as agents was doing for the president.

Most highest honored judges of our fair land stood up against the president of the U.S. for

doing wrong. I pray that you want let so unjust a thing happen to a poor soul that has worked for sixty five years to make a honest living not a life of crime.

The Court of Appeals stated they would go along with the Judges decision. They did not know that the Judge wanted to aquit the defendant. The forman of the jury contacted the Judge and ask could they rule on oral consent, the Judge when told the jury that they could not That there is no such thing as oral consent.

These instructions were not given in open court and not in the presnets of the Defendant.

A Clovis man convicted on a first-degree murder charge has won a new trial in his appeal to the New Mexico Supreme Court. The Court ruled Wednesday that the presiding judge improperly communicated with the jury.

Clifford Leo McCarter was convicted in Curry County December 15, 1978 in the death of Luis R. Romero, also of Clovis.

In its decision, the Supreme Court said the court record failed to show substantial evidence that the verdict was not affected by the communications with the jury.

The forman erred when he revealed the split decision of the jury before a unanimous verdict was reached. And Nieves erred when he instructed the jury it must deliberate further, the court said.

Ruling Handed down after Writ was filed Bar Bulletin January 24 Volum 19. No. 4.

CONCLUSION

1. The district attorney filed a case in Federal

Court over two years after the statue of limitations was up.

2. After a search and seizure if you don't get enough evidence for a indictment in a normal amount of time that the case is not to be presented to a grand jury, double jeporady is involved.

3. The only grounds the government is basing their agrument on is their version or Miranda Warning.

4, The government has no case, due to the confusion and complexibility of the Miranda Warning. Congress stepped forward and pulled the teeth of the Miranda Act by passing the Privacy Act of 1974. Refer to page five of the petitioners original brief.

5. The Judge errored.

6. The Forman of the jury errored.

Respectfully submitted,

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